

III. REMARKS/ARGUMENTS**A. Status of the Claims**

Claims 1-49 are pending in the application, of which claims 8-15, 17-26 and 46-49 were previously withdrawn from consideration. Claims 1-7, 16 and 27-45 stand rejected by the Examiner. By this amendment, Applicants propose to amend claims 1, 7, and 34, and to cancel claims 46-49. No new matter is added. Applicants respectfully submit that the claim amendments place the claims in condition for allowance, or at least in better form for consideration on appeal. Therefore, Applicants respectfully request entry of the amendments and allowance of the pending claims, in light of the following remarks.

B. Election/Restriction

The Office Action invites Applicants to cancel claims 8-15, 17-26 and 46-49 drawn to a nonelected species, or take another appropriate action as provided by 37 C.F.R. § 1.141. Office Action, page 2. In an effort to further prosecution of the application, Applicants propose to cancel claims 46-49, without waiver or prejudice, and reserve the right to pursue these claims in a continuing or divisional application. However, Applicants respectfully submit that they are not yet required to cancel any other claims drawn to nonelected species. In Paper No. 9, the Examiner alleged that claims 1-6 and 27-45 are generic claims, and that upon allowance of a generic claim, the Applicants would be entitled to consideration of claims of additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. Paper No. 9, page 2. At the present time, all of the generic claims are pending in the application, and any pending claims drawn to a nonelected species depend from one or more of the generic claims. Therefore, Applicants believe that it would be premature to cancel any additional claims, and respectfully decline the Examiner's invitation to do so at this time.

C. Claim Amendments

Applicants propose to amend claims 1 and 34 to recite a central fibrous layer containing from about 30% to about 50% by weight super absorbent polymer (SAP) and substantially continuous tow fibers. This amendment is supported by claims 29 and 41, and the Specification, for example, at page 31, lines 23-25, and page 32, lines 5-7. No new matter is added with this proposed amendment. Applicants respectfully submit that the claim amendments place the claims in condition for allowance, or at least in better form for consideration on appeal. Therefore, Applicants respectfully request entry of the amendments, and reconsideration and allowance of the amended claims in light of the following remarks.

The Office Action alleges that claim 7 does not recite the features that Applicants rely upon in the Response dated February 22, 2005, namely that the additional inner layer (a fluid acquisition layer) is not necessarily disposed between the upper and lower layers. Applicants respectfully submit that the "additional inner layer" recited in claim 7 refers to the "additional inner layer" recited in claim 1, which is necessarily disposed between the upper and lower layers of the absorbent core, and therefore reading limitations from the specification is unnecessary. However, in an effort to expedite prosecution, Applicants propose to amend claim 7 to recite "the absorbent laminate comprises just one additional inner layer disposed between the upper layer and the lower layer, and the additional inner layer is a fluid acquisition layer." No new matter is added with this proposed amendment. Applicants respectfully submit that the claim amendment places the claim in condition for allowance, or at least in better form for consideration on appeal. Therefore, Applicants respectfully request entry of the amendment, and reconsideration and allowance of the amended claim in light of the following remarks.

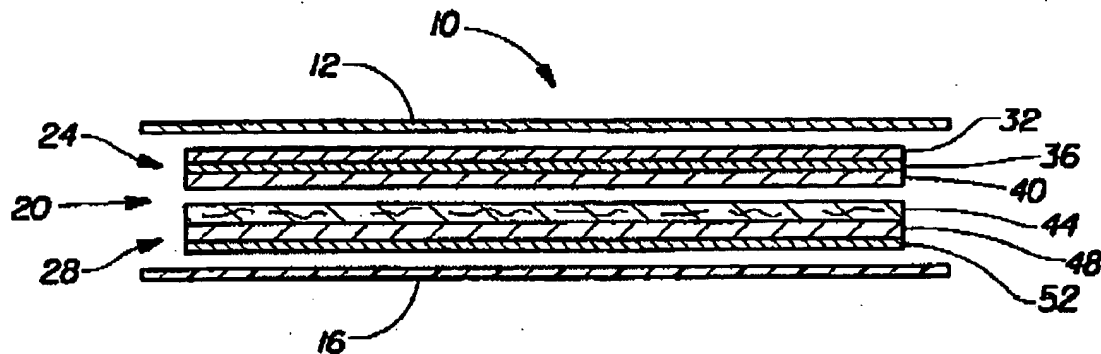
D. Claim Rejections

1. Claims Rejections under 35 U.S.C. § 103

Claims 1-7, 16, and 27-45 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,123,694 to Pieniak, *et al.* ("Pieniak") and further in view of U.S. Patent No. 5,562,646 to Goldman, *et al.* ("Goldman"). Three criteria must be met to establish a prima facie case of obviousness: (1) there must be some suggestion or motivation to modify the reference or to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the prior art references must teach or suggest all the claim limitations. *See* MPEP § 2142 *et seq.* Applicants respectfully submit that the Office Action does not establish a prima facie case because the references cited fail to teach or suggest all of the all of the limitations of the claims, namely an absorbent laminate core having at least four layers: an upper layer and a lower layer comprising a tissue or tissue-like material, a central fibrous layer disposed between the upper and lower layer containing from about 30 to about 50% by weight superabsorbent (SAP) and substantially continuous tow fibers, and at least one additional inner layer disposed between the upper and lower layer, where the additional inner layer contains no SAP, and is selected from the group consisting of a fluid acquisition layer, a distribution layer, an additional fibrous layer optionally containing SAP, a wicking layer, a storage layer, and combinations and fragments thereof, as recited in amended claims 1 and 34.

With respect to claim 1 (and 34), the Office Action alleges that Pieniak discloses an absorbent article, that includes an absorbent core at least partially disposed between the topsheet and the backsheet, but that Pieniak does not disclose an absorbent laminate core comprising at least four layers. Office Action, pages 2-3 and 6. The Office Action further alleges that Goldman discloses an absorbent laminate core comprising at least four layers, and that it would have been obvious to one of ordinary skill in the art to modify the core of Pieniak by providing the core of Goldman. Office Action, page 3.

Goldman discloses an absorbent member that has a multi-layer absorbent core as exemplified by Figure 1 reproduced below:



Goldman, Figure 1. As shown in Figure 1, Goldman discloses a multi-layer absorbent core (20) having an upper assembly (24) and a lower assembly (28). The upper assembly comprises an upper acquisition/distribution layer (32), and a first hydrogel-forming absorbent polymer layer (40) separated from the acquisition layer (32) by a tissue layer (36). The lower assembly comprises an upper fibrous layer (44), a lower layer (48) that comprises the second hydrogel-forming absorbent polymer, and a tissue layer (52). See also, Goldman at col. 33, lines 45-61. However, the absorbent laminate of Goldman does not contain a central fibrous layer containing from about 30% to about 50% superabsorbent polymer and substantially continuous tow fibers, as recited in amended claims 1 and 34.

For example, upper fibrous layer 44 of Goldman comprises a fibrous matrix and a hydrogel-forming absorbent polymer. Goldman discloses that the fibrous materials may be naturally fibers, or synthetic fibers. Goldman, col. 23, lines 16-18. But Goldman does not disclose that these fibers may be substantially continuous. Goldman discloses that thermoplastic materials may be introduced into the absorbent core, that may have fibers having a length up to about 7.5 centimeters long. Goldman, col. 28, lines 35-36. However, a typical baby diaper absorbent core is in excess of 10 centimeters, and a typical adult diaper absorbent core is much longer, and so a fiber 7.5 centimeters in

length would not be a substantially continuous fiber in these cores. Thus, Goldman fails to teach or suggest an absorbent laminate having a central fibrous layer disposed between the upper and lower layer containing from about 30% to about 50% by weight superabsorbent (SAP) and substantially continuous tow fibers.

Pieniak is insufficient to cure this deficiency. Pieniak discloses an absorbent article having an absorbent panel that comprises "an absorbent matrix including comminuted wood pulp, sometimes referred to [as] wood fluff, and superabsorbent material. . . ." Pieniak, col. 4, lines 56-58. But Pieniak completely fails to teach or suggest an absorbent core containing from about 30% to about 50% by weight SAP and substantially continuous tow fibers.

In summary, Goldman and Pieniak fail to teach or suggest an absorbent laminate core having at least four layers: an upper layer and a lower layer comprising a tissue or tissue-like material, a central fibrous layer disposed between the upper and lower layer containing from about 30 to about 50% by weight superabsorbent (SAP) and substantially continuous tow fibers, and at least one additional inner layer disposed between the upper and lower layer, where the additional inner layer contains no SAP, and is selected from the group consisting of a fluid acquisition layer, a distribution layer, an additional fibrous layer optionally containing SAP, a wicking layer, a storage layer, and combinations and fragments thereof, as recited in amended claims 1 and 34. Therefore, claims 1 and 34, and the claims that depend therefrom, are patentable over Pieniak and Goldman. For at least this reason, Applicants respectfully request reconsideration and withdrawal of this ground of rejection, and allowance of claims 1-7, 16, and 27-45.

PATENT APP. NO. 10/050,045
ATTY. DOCKET NO. 53394.000582
RESPONSE TO 5/26/2005 OFFICE ACTION

IV. CONCLUSION

For at least the reasons outlined above, Applicants respectfully submit that the application, if amended as proposed, is in condition for allowance. Entry of the proposed amendments and favorable reconsideration and allowance of the pending claims are respectfully solicited. Applicants believe that no fees are necessary in connection with the filing of this document. In the event any fees are necessary, please charge such fees, including fees for any extensions of time, to the undersigned's Deposit Account No. 50-0206. Should any outstanding issues remain, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,
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Dated: Aug. 26, 2005

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